

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

TRENTON SMITH,

Defendant.

CASE NO. 8:08CR206

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 23) issued by Magistrate Judge F.A. Gossett recommending denial of the Defendant's motion to suppress (Filing No. 16). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing evidence recovered during a May 13, 2008, warrantless search and a later search pursuant to a warrant that occurred on the same date. Judge Gossett issued oral findings of fact and conclusions of law, concluding: the Defendant, Trenton Smith, voluntarily consented to the law enforcement officers' initial entry into his home; the evidence in question was in plain view; and the affidavit supporting the search warrant application contained sufficient probable cause for issuance of the warrant and, alternatively, the *Leon* good-faith exception applies. (Tr. 90-101.)

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 17, 18) and the transcript (Filing No. 26). The Court has also viewed the evidence. (Filing No. 21.) Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 23) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 16) is denied.

DATED this 23rd day of September, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge